

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:13-CV-470-BO

ROBERT GENE BAILEY,)
)
Plaintiff,)
v.)
)
J. BAREFOOT, et al.,)
)
Defendants.)

)

ORDER

This matter is before the Court on the Memorandum and Recommendation ("M&R") of United States Magistrate Judge William A. Webb [DE 3]. For the following reasons, the Court ADOPTS the M&R. Plaintiff's application to proceed in forma pauperis [DE 2] is DENIED. The matter is DISMISSED.

BACKGROUND

Plaintiff, a North Carolina resident, brings this action against various employees of the North Carolina Division of Motor Vehicles Licence and Theft Bureau alleging fraud and perjury. On October 17, 2013, Magistrate Judge Webb recommended that plaintiff's motion to proceed in forma pauperis be denied and that the complaint be dismissed. [DE 3]. Plaintiff objects to the M&R. [DE 5].

DISCUSSION

A district court is required to review an M&R de novo if the defendant specifically objects to it or in cases of clear error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). The district court is only required to make a de novo determination of those specific findings to which the defendant has actually objected. *See Camby v. Davis*, 718 F.2d 198, 200

(4th Cir. 1983). Here, the plaintiff has filed an objection to the Magistrate Judge's recommendation that rambles on generally as to why his claim is not frivolous. However, plaintiff does not object to Magistrate Judge Webb's finding that plaintiff has violated the "three-strikes" statute 28 U.S.C. § 1915(g). Plaintiff also does not object to the finding that the instant action appears to be identical to previous claims raised by the plaintiff in *Bailey v. Ingram, et al.*, No. 5:09-00370-F (Oct. 9, 2009). Further plaintiff does not object to the finding that no allegation of danger or threat of serious injury as to overcome the gate-keeping provisions of § 1915(g) has been asserted. Finding no objection to the specific findings of the M&R, this Court considers whether the M&R is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A). The Court finds no clear error in the Magistrate Judge's decision, and therefore adopts the M&R.

CONCLUSION

For the foregoing reasons, the Court ADOPTS the Magistrate Judge's recommendations, DENIES plaintiff's motion to proceed in forma pauperis under the "three-strikes" rule, and DISMISSES plaintiff's claim as frivolous. The clerk is directed to enter judgment accordingly and close the file.

SO ORDERED,

this 23 day of January, 2014.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE